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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 SAFA ABDULHAMID AND) No. CV 08-1737 PVT
18 AFAF STOWELL,)
19 Plaintiffs,) STIPULATION AND AGREEMENT OF
20 v.) COMPROMISE AND SETTLEMENT;
21 UNITED STATES OF AMERICA) [PROPOSED] ORDER
and DOES 1 through 10,)
22 Defendants.)
23 _____)

24 BY AND THROUGH THEIR ATTORNEYS OF RECORD, THE PARTIES AGREE TO
25 THE FOLLOWING STIPULATION AND AGREEMENT OF COMPROMISE AND
26 SETTLEMENT AND [PROPOSED] ORDER:

- 27 1. The parties do hereby agree to settle, compromise and dismiss the above-captioned action

28
STIPULATION AND AGREEMENT OF COMPROMISE AND SETTLEMENT; [PROPOSED] ORDER
CV 08-1737 PVT

1 ("This Action") under the terms and conditions set forth herein.

2 2. Defendant United States of America ("Defendant") agrees to pay the total sum of
3 Nineteen Thousand Five Hundred Dollars and No Cents (\$19,500.00) to Plaintiffs. One draft in
4 the amount of Ten Thousand Dollars and No Cents (\$10,000.00) shall be made payable to
5 Woodall & Almeida and Safa Abdulhamid under the terms and conditions set forth herein. One
6 draft in the amount of Nine Thousand Five Hundred Dollars and No Cents (\$9,500.00) shall be
7 made payable to Woodall & Almeida and Afaf Stowell under the terms and conditions set forth
8 herein.

9 3. Plaintiffs and their heirs, executors, administrators, assigns and attorneys hereby agree to
10 accept the total sum of Nineteen Thousand Five Hundred Dollars and No Cents (\$19,500.00) in
11 full and final settlement and satisfaction of the claims raised in This Action under the terms and
12 conditions set forth herein.

13 4. The parties also agree that the total settlement amount of Nineteen Thousand Five
14 Hundred Dollars and No Cents (\$19,500.00) represents the entire amount payable to Plaintiffs
15 and their heirs, executors, administrators, assigns, agents, representatives, consultants and
16 attorneys.

17 5. The parties also agree that neither Plaintiffs nor any of their attorneys may make any
18 claim for attorney's fees or other costs or expenses of litigation against Defendant, its agents,
19 servants, or employees in connection with Plaintiffs' claims as set forth herein.

20 6. In consideration of the total payment of Nineteen Thousand Five Hundred Dollars and No
21 Cents (\$19,500.00) and the other terms of this Stipulation and Agreement, Plaintiffs agree that
22 they will immediately upon execution of this agreement execute a Stipulation of Dismissal,
23 which stipulation shall dismiss with prejudice all claims asserted in This Action and any claims
24 that could have been asserted in This Action, which is captioned Safa Abdulhamid and Afaf
25 Stowell v. United States of America and Does 1 through 10, No. CV 08-1737 PVT. The fully-
26 executed Stipulation of Dismissal will be held by Defendant's counsel and will be filed with the
27 Court upon receipt by Plaintiffs' counsel of the settlement amount.

28 7. Defendant will tender the settlement check within ninety (90) days of the Court's order

1 approving the terms listed in this Stipulation and Agreement.

2 8. The parties further agree that the filing of this executed Stipulation and Agreement shall
3 notify the Court of the parties' agreement to vacate all pending discovery, motion hearing dates,
4 pretrial deadlines and any other case management date associated with this litigation.

5 9. In consideration of the total payment of Nineteen Thousand Five Hundred Dollars and No
6 Cents (\$19,500.00) and the other terms set forth in this Stipulation and Agreement, as set forth
7 above, Plaintiffs hereby release and forever discharge Defendant and any and all of its past and
8 present officials, employees, agents, attorneys, successors, and assigns from any and all
9 obligations, damages, liabilities, causes of actions, claims, and demands of any kind and nature
10 whatsoever, whether suspected or unsuspected, arising in law or equity, arising from or by reason
11 of any and all known, unknown, foreseen, or unforeseen injuries, and the consequences thereof,
12 resulting from the facts, circumstances and subject matter that gave rise to This Action.

13 10. The provisions of California Civil Code Section 1542 are set forth below:

14 A general release does not extend to claims which the creditor does not know or suspect
15 to exist in his favor at the time of executing the release, which if known by him must
have materially affected his settlement with the debtor.

16 Plaintiffs, having been apprised of the statutory language of Civil Code Section 1542 by their
17 attorneys, and fully understanding the same, nevertheless elect to waive the benefits of any and
18 all rights they may have pursuant to the provision of that statute or pursuant to any similar
19 provision of federal law. Plaintiffs understand that if the facts concerning Plaintiffs' claimed
20 injuries and the liability of Defendant or its agents, servants, or employees for damages
21 pertaining thereto are found hereafter to be other than or different from the facts now believed to
22 be true, this Stipulation and Agreement shall be and remain effective notwithstanding such
23 material difference.

24 11. The parties acknowledge that neither this Stipulation and Agreement nor anything
25 contained herein shall constitute an admission of liability or fault on the part of Defendant or its
26 agents, servants, or employees. This agreement is entered into by the parties for the purpose of
27 compromising disputed claims and avoiding the expenses and risks of litigation.

28 12. This Stipulation and Agreement may be pled as a full and complete defense to any action

1 or other proceeding, including any local, state or federal administrative action, involving any
2 person or party that arises out of the claims released and discharged by this agreement.

3 13. Plaintiffs and their counsel have been informed and agree that payment of the settlement
4 amount may take up to ninety (90) days to process. Defendant will submit a request for payment
5 to the National Finance Center within seven (7) days after this Stipulation and Agreement is
6 approved by the Court.

7 14. The parties agree that the District Court shall retain jurisdiction over this matter for the
8 purpose of resolving any dispute alleging a breach of this Stipulation and Agreement.

9 15. Each party acknowledges that it has been represented by and has relied upon independent
10 counsel in negotiating, preparing and entering into this Stipulation and Agreement and that it has
11 had the contents of this Stipulation and Agreement fully explained by counsel and that it is fully
12 aware of and understands all of the terms of the agreement and the legal consequences thereof. It
13 is further acknowledged that the parties have mutually participated in the drafting of this
14 Stipulation and Agreement and it is agreed that no provision herein shall be construed against
15 any party hereto by virtue of the drafting of this Stipulation and Agreement.

16 16. If any provision of this Stipulation and Agreement shall be held invalid, illegal, or
17 unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in
18 any way be affected or impaired thereby. This instrument shall constitute the entire agreement
19 between the parties, and it is expressly understood and agreed that this agreement has been freely
20 and voluntarily entered into by the parties hereto with the advice of counsel, who have explained
21 the legal effect of this agreement. The parties further acknowledge that no warranty or
22 representation has been made on any subject other than as set forth in this Stipulation and
23 Agreement.

24 SO STIPULATED.

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1
2 DATED: 8/7/08


SAFA ABDULHAMID, Plaintiff

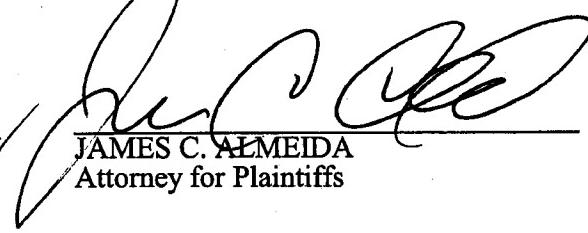
4
5 DATED:

8/7/08


AFAF STOWELL, Plaintiff

6
7 DATED:

8/8/08


JAMES C. ALMEIDA
Attorney for Plaintiffs

10
11 DATED: 8/8/08

By:


NEILL T. TSENG
Assistant United States Attorney
Attorneys for Defendant USA

13
14 PURSUANT TO THE ABOVE STIPULATION AND AGREEMENT, APPROVED AND
15 SO ORDERED: THE MATTER IS SET ON THIS COURT'S DISMISSAL CALENDAR AT 2:00 PM
16 ON NOVEMBER 18, 2008.

19
20 DATED: 8/11/08


HONORABLE PATRICIA V. TRUMBULL
UNITED STATES MAGISTRATE JUDGE